
INTRODUCTORY JURY INSTRUCTIONS - CIVIL

INSTRUCTION NO. 1

Members of the jury: Now that you have been sworn, I will give you initial instructions to help guide you during the course of the trial.

The trial will begin with opening statements by each side. An opening statement is neither an argument nor is it evidence. It is instead a roadmap or outline of what each party intends to prove.

After opening statements, the parties will present evidence by testimony of witnesses or by exhibits. The plaintiff will present his/her/its case, then the defendant will put on his/her/its case. The plaintiff will then have the opportunity to present any evidence which rebuts that presented by the defendant.

After the evidence is complete, I will instruct you as to the applicable law. The parties will then present their closing arguments - beginning with the plaintiff, then the defendant, then a final word by the plaintiff. Following closing arguments you will retire to deliberate.

INSTRUCTION NO. 2

As mentioned in the jury selection process, the judge and the jury work as a team, each performing distinct and separate jobs.

My job as the judge is to make sure that the trial process moves smoothly and properly, to determine the law that applies to this controversy and to instruct you as to the law. I will make rulings on certain legal issues and evidentiary issues as we go along. You might analogize the evidentiary rulings to a football game in which the referee declares a ball in or out of bounds. These rulings will determine whether evidence is “in bounds,” and therefore something you should consider, or whether it is “out of bounds,” and therefore not subject to your consideration.

At times you may be excused from the courtroom or the attorneys may come to the bench for a private conference. We will try to minimize any inconvenience to you, but these conferences are a natural and essential part of the trial process. The attorneys will be addressing issues such as which order witnesses will be presented in, whether the parties can agree on certain facts, the applicable law, and so on.

After all the evidence is presented, I will give you final instructions as to the applicable law. You will each have copies of the final instructions and I will read them to you. I will also provide you with a form to record your verdict. The instructions and verdict form will help guide you in your deliberations.

Your job as jurors is: (1) to listen to and review the evidence; (2) to decide the facts in this case – that is, what actually happened; (3) to apply the law to the facts that you find; and (4) to reach a decision as to all claims and affirmative defenses. That decision is called a verdict. You must follow the law whether you agree with it or not. Nothing I say or do during the course of the trial is intended to indicate, or should be understood by you as indicating what your verdict should be.

INSTRUCTION NO. 3

You listen to and review the evidence during a trial in order to determine the facts. For example, in a traffic accident case, one person might testify that when a car went through the intersection the light was red; another person might testify that the light was green. You, as jurors, would evaluate the testimony of both witnesses and all other evidence to decide whether the light was red or green.

The evidence which you may consider consists of the testimony of witnesses, documents and other things received as exhibits, any facts that the lawyers agree to by stipulation and any facts that I instruct you to find.

There are two kinds of evidence - direct and circumstantial. You may consider both kinds of evidence, and the law makes no distinction between the weight to be given to them. Direct evidence is direct proof of a fact - for example, testimony of a witness who saw an event. Circumstantial evidence establishes a fact from which you may infer or conclude that other facts exist. As an example of circumstantial evidence please imagine that a person walks into a room carrying an umbrella and wearing a wet raincoat. That could be circumstantial evidence from which you might conclude it was raining outside. It is not direct evidence that it is raining, because no one said that they saw it raining. Instead, you draw the inference from the umbrella and wet raincoat. You are not required to draw this inference. Instead, you might conclude that other events better explain the umbrella and wet raincoat; perhaps you observed a sprinkler running near the entrance to the building. You make decisions based on direct and circumstantial evidence every day, and should use your experience in everyday life to help you make your decisions here.

With regard to testimony, it is up to you to decide which witnesses to believe and which not to believe and how much of any witness' testimony to accept or reject. You should use the

same tools, observations, and methods you use in your everyday life to help you decide who should be believed and who should not. However, because you will only hear one witness at a time, you should wait until you have heard all of the evidence before you make up your mind as to whether to believe the testimony of any witness and before you decide about the existence of any particular fact.

INSTRUCTION NO. 4

There are certain things that are **not evidence**, and you may not consider these things in determining the facts.

(1) Statements, arguments, questions or objections by the attorneys **are not evidence**.

Lawyers have an obligation to make statements and arguments, to ask questions and to object to evidence that they believe is improper under the rules of evidence— in other words, out of bounds.

Do not be influenced by any evidentiary objection, my ruling on it or the frequency of objections made by any attorney. If the objection is sustained, you should ignore the answer to the question; if I overrule the objection, treat the answer like any other.

(2) Instructions or admonitions to counsel **are not evidence**. They are imposed to assure that the trial process is proper.

(3) If I tell you to disregard a particular statement, **that statement is not evidence**. You must put that statement out of your mind and not consider it for any purpose. In some instances you may be instructed that the evidence can be received for a particular purpose only. In that case, you must consider it only for the particular purpose specified.

(4) Anything you see or hear outside the courtroom **is not evidence**. You must limit yourself to the evidence presented here in the courtroom.

(5) During the course of the trial, people may enter and leave the courtroom or counsel tables. You should not concern yourself with this - **it is not evidence**.

INSTRUCTION NO. 5

Many, if not all of you, have watched portions of a trial on TV or in the movies. Some of you may have served on prior juries or watched a live trial. Those of you who have had both experiences will undoubtedly note that there is a difference between them. TV and movie trials are designed to entertain and the trial scenes often are used to solve a mystery or to create drama.

That is not the function of a real trial. A real trial is a search for truth – truth as to the facts upon which the parties do not agree. Therefore, there will be moments when the trial process may seem dull and boring compared to what you see on TV or in the movies. I ask nonetheless that you pay careful attention. If you require a recess, you may signal the courtroom deputy by raising your hand.

In addition, you may feel that you have not heard the whole story. That may be true because you are asked only to resolve discrete issues. Please be assured that the parties will have presented the best evidence they have as to those issues. Sometimes the issues will change during trial. The verdict form and jury instructions will define the issues you need to determine and give you the legal framework so you can apply the law.

INSTRUCTION NO. 6

This is a civil case. The plaintiff has the burden of proving all of the required elements of his/her/its case by a preponderance of the evidence. This means that the evidence must be sufficient to convince you that what the plaintiff claims is more likely than not. If you think of the “scales of justice”, the plaintiff’s evidence must tip the scale somewhat to his/her/its side in order to prevail. It is not sufficient for the plaintiff to prove that his/her/ its version of the events “might” be true, or even to prove that it is “as likely to be true” as another version. If the plaintiff fails to meet this burden, your verdict must be for the defendant.

Those of you who have been involved in a criminal case will have heard of “proof beyond a reasonable doubt”. That standard does not apply in this case unless you are specifically instructed. Unless you are told to do so, do not use it.

INSTRUCTION NO. 7

Now, a few words about your conduct during the case.

(1) You may take notes during the trial. The Courtroom Deputy will give you a notebook with a pad of paper and a pencil or pen for that purpose. Unless instructed to the contrary, the notebook should be left on your seat anytime you leave the courtroom. You may use your notes to help you recall evidence when you deliberate, but do not rely on your notes or anybody else's if they do not agree with your recollection. Everyone takes notes in different formats, in different levels of detail, and of different things. They are only to be used as an aid to your memory as to what you saw and heard.

(2) You will not be able to ask questions of the witnesses or their attorneys. If you have a problem or a particular need in or outside of the courtroom, please let the Courtroom Deputy know.

(3) During the trial you are not to talk about the case with anyone or permit anyone to discuss it with you. This means that you cannot discuss the case with other jurors until the trial is over and you begin deliberations. You are not to discuss the case with anyone other than a juror – in other words, your spouse, family, friend or court personnel – until after the jury has reached its verdict and you have been discharged.

(4) Do not read or listen to anything reported by the media or press that relates to this case- this means newspapers, TV or any other medium. If anyone should try to talk to you about it, tell the Courtroom Deputy, who will tell me.

(5) Do not do any research or make any investigation about the case on your own. This prohibition includes reference to books, prior media reports and the internet.

(6) Keep an open mind and do not form any opinion until all the evidence has been presented and you begin deliberations with your co-jurors. Once you begin deliberations, you may only discuss the case if all jurors are present.